

**Introduced by Senator Alarcon**

February 24, 2006

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An act to amend Sections 381 and 890 of, to amend the heading of Chapter 6 (commencing with Section 2781) of Part 2 of Division 1 of, and to add and repeal Section 2789.5 of, the Public Utilities Code, relating to energy, and making an appropriation therefor.

**LEGISLATIVE COUNSEL'S DIGEST**

SB 1816, as introduced, Alarcon. Energy: gas furnace replacement program.

Under existing law, the Public Utilities Commission has regulatory authority over public utilities, including gas corporations and electrical corporations. Existing law establishes a Low-Income Oversight Board to advise the commission on low-income electric and gas customer issues and to serve as a liaison for the commission to low-income ratepayers and representatives. Existing law requires the commission to establish a program of assistance to low-income electric and gas customers, referred to as the California Alternate Rates for Energy (CARE) program. Existing law establishes a surcharge on all natural gas consumed in the state to fund certain low-income assistance programs, cost-effective energy efficiency and conservation activities, and public interest research and development (natural gas public goods charge). Existing law requires a public utility gas corporation, as defined, to collect the natural gas public goods charge from natural gas consumers, as specified. The money from the natural gas public goods charge is deposited in the Gas Consumption Surcharge Fund and is continuously appropriated to specified entities, including to the commission, or to an entity designated by the commission, to fund low-income assistance programs, cost-effective energy efficiency and conservation activities,

and public interest research and development not adequately provided by the competitive and regulated markets. Under the act, the commission requires electrical corporations to identify a separate rate component to fund programs that enhance system reliability and provide in-state benefits (electricity public goods charge). The electricity public goods charge is a nonbypassable element of local distribution and collected on the basis of usage. The funds are collected to support cost-effective energy efficiency and conservation activities, public interest research and development not adequately provided by competitive and regulated markets, and renewable energy resources.

This bill would require that the commission, in consultation with the Low-Income Oversight Board and gas corporations and electrical corporations that participate in the CARE program, to establish a program to go into effect on July 1, 2007, and to continue until December 31, 2013, to annually replace 50,000 old gas furnaces, as defined, in residential dwelling units, as defined, occupied by customers eligible for the CARE program. These provisions would be repealed as of January 1, 2014. The bill would provide that the costs of the program are to be recovered through the natural gas and electricity public goods charges. By increasing the natural gas and electricity public goods charges to fund the furnace replacement program, the bill would result in a change in state taxes for the purpose of increasing state revenues within the meaning of Section 3 of Article XIII A of the California Constitution, and thus would require for passage the approval of  $\frac{2}{3}$  of the membership of each house of the Legislature. Because the bill would increase the amount of money deposited in the Gas Consumption Surcharge Fund, a continuously appropriated fund, and make this money available for a new purpose, it would make an appropriation.

This bill would delete certain outdated funding level requirements relative to the electricity public goods charge and instead require that funding be consistent with the existing Reliable Electric Service Investment Act.

Under existing law, a violation of the Public Utilities Act or an order or direction of the commission is a crime.

Certain provisions of this bill would be part of the act and an order or other action of the commission would be required to implement certain of the bill's provisions. Because a violation of the bill's provisions or of an order or decision of the commission would be a

crime, this bill would impose a state-mandated local program by creating new crimes.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

Vote:  $\frac{2}{3}$ . Appropriation: yes. Fiscal committee: yes.  
State-mandated local program: yes.

*The people of the State of California do enact as follows:*

1 SECTION 1. The Legislature finds and declares all of the  
2 following:

3 (a) The efficiency of new gas furnaces that heat residential  
4 dwelling units have improved by an average of 25 percent since  
5 1975, due in part to the implementation of appliance efficiency  
6 standards beginning in 1978.

7 (b) The improvements in the efficiency of gas furnaces have  
8 been accompanied by safety improvements that reduce emissions  
9 of carbon monoxide and other harmful air pollutants that  
10 endanger public health.

11 (c) California has a large number of residential dwelling units  
12 that are more than 30 years old and have gas furnaces that  
13 predate the improvements in efficiency and safety.

14 (d) It is in the public interest to replace old and inefficient gas  
15 furnaces lacking safety features with new furnaces that are more  
16 energy efficient and safer.

17 (e) Recent technological advances in heating and cooling  
18 system designs may make it appropriate that electrical  
19 corporations participate in a program for the replacement of old  
20 and inefficient gas furnaces.

21 SEC. 2. Section 381 of the Public Utilities Code is amended  
22 to read:

23 381. (a) To ensure that the funding for the programs  
24 described in subdivision (b) and Section 382 are not commingled  
25 with other revenues, the commission shall require each electrical  
26 corporation to identify a separate rate component to collect the  
27 revenues used to fund these programs. The rate component shall

1 be a nonbypassable element of the local distribution service and  
2 collected on the basis of usage. ~~This rate component shall fall~~  
3 ~~within the rate levels identified in subdivision (a) of Section 368.~~

4 (b) The commission shall allocate funds collected pursuant to  
5 subdivision (a), and any interest earned on collected funds, to  
6 programs that enhance system reliability and provide in-state  
7 benefits as follows:

8 (1) Cost-effective energy efficiency and conservation  
9 activities.

10 (2) Public interest research and development not adequately  
11 provided by competitive and regulated markets.

12 (3) In-state operation and development of existing and new  
13 and emerging renewable resource technologies defined as  
14 electricity produced from other than a conventional power source  
15 within the meaning of Section 2805, provided that a power  
16 source utilizing more than 25 percent fossil fuel may not be  
17 included.

18 *(4) A furnace replacement program to improve energy*  
19 *efficiency and public safety pursuant to Section 2789.5.*

20 (c) The Public Utilities Commission shall order the respective  
21 electrical corporations to collect and spend these funds, as  
22 follows:

23 (1) Cost-effective energy efficiency and conservation activities  
24 shall be funded at ~~not less than the following levels commencing~~  
25 ~~January 1, 1998, through December 31, 2001: for San Diego Gas~~  
26 ~~and Electric Company a level of thirty-two million dollars~~  
27 ~~(\$32,000,000) per year; for Southern California Edison Company~~  
28 ~~a level of ninety million dollars (\$90,000,000) for each of the~~  
29 ~~years 1998, 1999, and 2000; fifty million dollars (\$50,000,000)~~  
30 ~~for the year 2001; and for Pacific Gas and Electric Company a~~  
31 ~~level of one hundred six million dollars (\$106,000,000) per year~~  
32 *consistent with Article 15 (commencing with Section 399).*

33 (2) Research, development, and demonstration programs to  
34 advance science or technology that are not adequately provided  
35 by competitive and regulated markets shall be funded pursuant to  
36 Section 399.8.

37 (3) In-state operation and development of existing and new  
38 and emerging renewable resource technologies shall be funded at  
39 ~~not less than the following levels on a statewide basis: one~~  
40 ~~hundred nine million five hundred thousand dollars~~

~~(\$109,500,000) per year for each of the years 1998, 1999, and 2000, and one hundred thirty-six million five hundred thousand dollars (\$136,500,000) for the year 2001. To accomplish these funding levels over the period described herein the San Diego Gas and Electric Company shall spend twelve million dollars (\$12,000,000) per year, the Southern California Edison Company shall expend no less than forty-nine million five hundred thousand dollars (\$49,500,000) for the years 1998, 1999, and 2000, and no less than seventy-six million five hundred thousand dollars (\$76,500,000) for the year 2001, and the Pacific Gas and Electric Company shall expend no less than forty-eight million dollars (\$48,000,000) per year through the year 2001. Additional funding not to exceed seventy-five million dollars (\$75,000,000) shall be allocated from moneys collected pursuant to subdivision (d) in order to provide a level of funding totaling five hundred forty million dollars (\$540,000,000) consistent with Article 15 (commencing with Section 399).~~

(4) Up to fifty million dollars (\$50,000,000) of the amount collected pursuant to subdivision (d) may be used to resolve outstanding issues related to implementation of subdivision (a) of Section 374. Moneys remaining after fully funding the provisions of this paragraph shall be reallocated for purposes of paragraph (3).

(5) Up to ninety million dollars (\$90,000,000) of the amount collected pursuant to subdivision (d) may be used to resolve outstanding issues related to contractual arrangements in the Southern California Edison service territory stemming from the Biennial Resource Planning Update auction. Moneys remaining after fully funding the provisions of this paragraph shall be reallocated for purposes of paragraph (3).

~~(6) The funding of in-state operation and development of existing and new and emerging renewable resources technologies shall be made available pursuant to Section 399.8. The appropriate level of funding of the furnace replacement program to improve energy efficiency and public safety pursuant to Section 2789.5 shall be determined and established by the commission in a public proceeding.~~

(d) Notwithstanding any other provisions of this chapter, the commission may allow entities subject to its jurisdiction to extend the period for competition transition charge collection up

1 to three months beyond its otherwise applicable termination of  
2 December 31, 2001, so as to ensure that the aggregate portion of  
3 the research, environmental, and low-income funds allocated to  
4 renewable resources shall equal five hundred forty million  
5 dollars (\$540,000,000) and that the costs specified in paragraphs  
6 (3), (4), and (5) of subdivision (c) are collected.

7 (e) Each electrical corporation shall allow customers to make  
8 voluntary contributions through their utility bill payments as  
9 either a fixed amount or a variable amount to support programs  
10 established pursuant to paragraph (3) of subdivision (b). Funds  
11 collected by electrical corporations for these purposes shall be  
12 forwarded in a timely manner to the appropriate fund as specified  
13 by the commission.

14 (f) For purposes of this article, “emerging renewable  
15 technology” means a new renewable technology, including, but  
16 not limited to, fuel cells using renewable fuels and photovoltaic  
17 technology, that is determined by the State Energy Resources  
18 Conservation and Development Commission to be emerging  
19 from research and development and that has significant  
20 commercial potential.

21 (g) The commission’s authority to collect funds pursuant to  
22 this section, for purposes of paragraph (3) of subdivision (b),  
23 shall become inoperative on March 31, 2002.

24 SEC. 3. Section 890 of the Public Utilities Code is amended  
25 to read:

26 890. (a) On and after January 1, 2001, there shall be imposed  
27 a surcharge on all natural gas consumed in this state. The  
28 commission shall establish a surcharge to fund low-income  
29 assistance programs required by Sections 739.1, 739.2, and 2790,  
30 *furnace replacement programs to improve energy efficiency and*  
31 *public safety pursuant to Section 2789.5*, and cost-effective  
32 energy efficiency and conservation activities and public interest  
33 research and development authorized by Section 740 and not  
34 adequately provided by the competitive and regulated markets.  
35 Upon implementation of this article, funding for those programs  
36 shall be removed from the rates of gas utilities.

37 (b) (1) Except as specified in Section 898, a public utility gas  
38 corporation, as defined in subdivision (b) of Section 891, shall  
39 collect the surcharge imposed pursuant to subdivision (a) from

1 any person consuming natural gas in this state who receives gas  
2 service from the public utility gas corporation.

3 (2) A public utility gas corporation is relieved from liability to  
4 collect the surcharge insofar as the base upon which the  
5 surcharge is imposed is represented by accounts which have been  
6 found to be worthless and charged off in accordance with  
7 generally accepted accounting principles. If the public utility gas  
8 corporation has previously paid the amount of the surcharge it  
9 may, under regulations prescribed by the State Board of  
10 Equalization, take as a deduction on its return the amount found  
11 to be worthless and charged off. If any accounts are thereafter  
12 collected in whole or in part, the surcharge so collected shall be  
13 paid with the first return filed after that collection. The  
14 commission may by regulation promulgate other rules with  
15 respect to uncollected or worthless accounts as it determines to  
16 be necessary to the fair and efficient administration of this part.

17 (c) Except as specified in Section 898, all persons consuming  
18 natural gas in this state that has been transported by an interstate  
19 pipeline, as defined in subdivision (c) of Section 891, shall be  
20 liable for the surcharge imposed pursuant to subdivision (a).

21 (d) The commission shall annually determine the amount of  
22 money required for the following year to administer this chapter  
23 and fund the natural gas related programs described in  
24 subdivision (a) for the service territory of each public utility gas  
25 corporation.

26 (e) The commission shall annually establish a surcharge rate  
27 for each class of customer for the service territory of each public  
28 utility gas corporation. A customer of an interstate gas pipeline,  
29 as defined in Section 891, shall pay the same surcharge rate as  
30 the customer would pay if the customer received service from the  
31 public utility gas corporation in whose service territory the  
32 customer is located. The commission shall determine the total  
33 volume of retail natural gas transported within the service  
34 territory of a utility gas provider, that is not subject to exemption  
35 pursuant to Section 896, for the purpose of establishing the  
36 surcharge rate.

37 (f) The commission shall allocate the surcharge for gas used  
38 by all customers, including those customers who were not subject  
39 to the surcharge prior to January 1, 2001.

(g) The commission shall notify the State Board of Equalization of the surcharge rate for each class of customer served by an interstate pipeline in the service territory of a public utility gas corporation.

(h) The State Board of Equalization shall notify each person who consumes natural gas delivered by an interstate pipeline of the surcharge rate for each class of customer within the service territory of a public utility gas corporation.

(i) The surcharge imposed pursuant to subdivision (a) shall be in addition to any other charges for natural gas sold or transported for consumption in this state. Effective on July 1, 2001, the surcharge imposed pursuant to this article shall be identified as a separate line item on the bill of a customer of a public utility gas corporation.

(j) Notwithstanding subdivision (a), public utility gas corporations shall continue to collect in rates those costs of programs described in subdivision (a) of Section 890 that are uncollected prior to the operative date of this article.

SEC. 4. The heading of Chapter 6 (commencing with Section 2781) of Part 2 of Division 1 of the Public Utilities Code is amended to read:

CHAPTER 6. ~~HOME INSULATION~~ RESIDENTIAL ENERGY  
EFFICIENCY ASSISTANCE AND FINANCING

SEC. 5. Section 2789.5 is added to the Public Utilities Code, to read:

2789.5. (a) For purposes of this section, the following terms have the following meanings:

(1) "Old gas furnace" means a forced air furnace, wall heater, or floor heater that is more than 30 years old and has a standing pilot light.

(2) "Residential dwelling unit" means a detached home, mobilehome, manufactured home, or a unit in a multifamily structure occupied either by the owner or by a tenant.

(b) The commission, in consultation with the Low Income Oversight Board and those gas corporations and electrical corporations that participate in the California Alternate Rates for Energy (CARE) program, shall establish a program to go into effect on July 1, 2007, to annually replace 50,000 old gas



1 furnaces in residential dwelling units occupied by customers  
2 eligible for the CARE program. The furnace replacement  
3 program shall be in addition to all other programs of assistance  
4 for low-income customers established by the commission and  
5 administered by an electrical corporation, gas corporation or  
6 third-party administrator pursuant to Sections 381, 381.1, 382,  
7 382.1, 739.1, and 2790. The program shall continue until  
8 December 31, 2013.

9 (c) The costs of the program adopted and implemented  
10 pursuant to this section shall be recovered pursuant to Sections  
11 381 and 890.

12 (d) This section shall remain in effect only until January 1,  
13 2014, and as of that date is repealed, unless a later enacted  
14 statute, that is enacted before January 1, 2014, deletes or extends  
15 that date.

16 SEC. 6. No reimbursement is required by this act pursuant to  
17 Section 6 of Article XIII B of the California Constitution because  
18 the only costs that may be incurred by a local agency or school  
19 district will be incurred because this act creates a new crime or  
20 infraction, eliminates a crime or infraction, or changes the  
21 penalty for a crime or infraction, within the meaning of Section  
22 17556 of the Government Code, or changes the definition of a  
23 crime within the meaning of Section 6 of Article XIII B of the  
24 California Constitution.